IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10889 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SAKARLAL C PUROHIT & 1 & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
NOTICE SERVED for Petitioner(s) : 1 – 2.
MR HRIDAY BUCH for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1 - 3.
==========

CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 23/03/2006

ORAL JUDGMENT

1.The present petition is preferred by the petitioners for the relief inter alia to direct the respondents to manage the affairs of Datar Trust in the manner

provided under 7A of the Bombay Public Trusts Act and it has been also prayed that the respondent No. 1 be directed to appoint a committee for management of the affairs of the Datar Trust in accordance with the provisions of Section 56(A) of the Bombay Public Trusts Act. The petitioners have also prayed for the writ apprehending the appointment of any person to manage the affairs of Upla Datar Trust except Shri Vithalbhai Patel.

2. Upon hearing Mr. Buch, learned counsel for the petitioners and Mr. Pancholi, learned Assistant Government Pleader appearing for the State Authorities, it appears that for establishing the right as Bhandari, Civil Suit No. 314/1991 and 430/1991, are pending in the Court of Civil Judge/s at Junagadh and one of the questions which may be required to be examined in the said Suit is appointment of Bhandari in the Trust known as Upla Datar. It appears that there is no dispute on the point that the Trust at present is under the control of the District Collector. It also appears that the follower/disciples of Pir Upla Datar are from both religions i.e. Hindu as well as Muslim. It also appears from the affidavit filed by the State officers that there is no unanimity for appointment of the Committee for management of the property and affairs of the Trust of both the community and the efforts are being made by the State Government through the leaders of Hindu and Muslim community for amicable settlement for appointment of a Committee.

3. Normally when there is a communal clash between the two

classes of citizens having different religion, it would be in the larger interest that the property remains under the Control of the State. It is well settled that the State has no religion. The reference may be made to the decision of the Apex Court in the case of State of Karnakta & Anr. Vs. Dr. Pravinbhai Togadia reported at 2004(4) SCC 684. Therefore, if there is amicable settlement for appointment of the Committee comprising of the persons belonging to the Hindu as well as Muslim religion, who are disciples of Upla Datar, the State Government may consider the same keeping in view the larger interest. However, if there is no amicable settlement, it would be just and proper, if the property and the affairs of the Trust continues to remain under the control of the District Collector or the State Government.

4. In view of the aforesaid, subject to the aforesaid observations, I find that when the suit is also pending and that there is no amicable settlement on the aspects of appointment of Committee, it would be just and proper not to issue the writ to the authority for appointing committee for looking after the affairs and the property of the Trust known as Upla Datar. Hence, subject to the aforesaid observations, Rule discharged.

(JAYANT PATEL, J.)

*bjoy